

statutory or recognized by the courts)
concerning advance directives; and

- (f) Provide (individually or with others) for education for staff and the community on issues concerning advance directives.
- (2) Providers will furnish the written information described in paragraph (1)(a) to all adult individuals at the time specified below:
 - (i) Hospitals at the time an individual is admitted as an inpatient.
 - (ii) Nursing facilities when the individual is admitted as a resident.
 - (iii) Providers of home health care or personal care services before the individual comes under the care of the provider;
 - (iv) Hospice program at the time of initial receipt of hospice care by the individual from the program; and
 - (v) Managed care organizations, health insuring organizations, prepaid inpatient health plans, and prepaid ambulatory health plans (as applicable) at the time of enrollment of the individual with the organization.

State law.

- (3) Attachment 4.34A describes law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives.

_____ Not applicable. No State law or court decision exist regarding advance directives.

State: West Virginia

Citation 4.14

Utilization/Quality Control

42 CFR 431.60
42 CFR 456.2
50 FR 15312
1902(a)(30)(C) and
1902(d) of the
Act, P.L. 99-509
(Section 9431)

- (a) A Statewide program of surveillance and utilization control has been implemented that safeguards against unnecessary or inappropriate use of Medicaid services available under this plan and against excess payments, and that assesses the quality of services. The requirements of 42 CFR Part 456 are met:

 X Directly

 X By undertaking medical and utilization review requirements through a contract with a Utilization and Quality Control Peer Review Organization (PRO) designated under 42 CFR Part 462. The contract with the PRO —

- (1) Meets the requirements of §434.6(a);
- (2) Includes a monitoring and evaluation plan to ensure satisfactory performance;
- (3) Identifies the services and providers subject to PRO review;
- (4) Ensures that PRO review activities are not inconsistent with the PRO review of Medicare services; and
- (5) Includes a description of the extent to which PRO determinations are considered conclusive for payment purposes.

1902(d) of the
ACT, P.L. 99-509
(section 9431)
1932(c)(2)

- X A qualified External Quality Review Organization performs an annual External Quality Review that meets the requirements of 42 CFR 438 Subpart E each managed care organization, prepaid inpatient health plan, and health insuring organizations under contract, except where exempted by the regulation.

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Citation	4.14	Utilization/Quality Control (Continued)
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42 CFR 438.356(e)

For each contract, the State must follow an open, competitive procurement process that is in accordance with State law and regulations and consistent with 45 CFR part 74 as it applies to State procurement of Medicaid services.

42 CFR 438.354
42 CFR 438.356(b) and (d)

The State must ensure that an External Quality Review Organization and its subcontractors performing the External Quality Review or External Quality Review-related activities meets the competence and independence requirements.

___ Not applicable.

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State: West Virginia

Citation	4.18	Recipient Cost Sharing and Similar Charges
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42 CFR 447.51
through 447.58

- (a) Unless a waiver under 42 CFR 431.55(g) applies, deductibles, coinsurance rates, and copayments do not exceed the maximum allowable charges under 42 CFR 447.54.

1916(a) and (b)
of the Act

- (b) Except as specified in items 4.18(b)(4), (5), and (6) below, with respect to individuals covered as categorically needy or as qualified Medicare beneficiaries (as defined in section 1905(p)(1) of the Act) under the plan:

- (1) No enrollment fee, premium, or similar charge is imposed under the plan.

- (2) No deductible, coinsurance, copayment, or similar charge is imposed under the plan for the following:

- (i) Services to individuals under age 18, or under--

☐ Age 19

☐ Age 20

☐ Age 21

Reasonable categories of individuals who are age 18 or older, but under age 21, to whom charges apply are listed below, if applicable.

- (ii) Services to pregnant women related to the pregnancy or any other medical condition that may complicate the pregnancy.

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Citation 4.18(b)(2) (Continued)

42 CFR 447.51
through
447.58

- (iii) All services furnished to pregnant women.
women.

☐ Not applicable. Charges apply for
services to pregnant women unrelated to
the pregnancy.
- (iv) Services furnished to any individual who is an
inpatient in a hospital, long-term care facility, or
other medical institution, if the individual is
required, as a condition of receiving services in
the institution to spend for medical care costs all
but a minimal amount of his or her income
required for personal needs.
- (v) Emergency services if the services meet the
requirements in 42 CFR 447.53(b)(4).
- (vi) Family planning services and supplies furnished
to individuals of childbearing age.
- (vii) Services furnished by a managed care
organization, health insuring organization,
prepaid inpatient health plan, or prepaid
ambulatory health plan in which the individual is
enrolled, unless they meet the requirements of
42 CFR 447.60.

42 CFR 438.108
42 CFR 447.60

- ☐ Managed care enrollees are charged
deductibles, coinsurance rates, and
copayments in an amount equal to the
State Plan service cost-sharing.
- ☒ Managed care enrollees are not charged
deductibles, coinsurance rates, and
copayments.

1916 of the Act,
P.L. 99-272,
(Section 9505)

- (viii) Services furnished to an individual receiving
hospice care, as defined in section 1905(o) of the
Act.

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Citation	4.23	Use of Contracts
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42 CFR 434.4
48 FR 54013

The Medicaid agency has contracts of the type(s) listed in 42 CFR Part 434. All contracts meet the requirements of 42 CFR Part 434.

☐ Not applicable. The State has no such contracts.

42 CFR Part 438

The Medicaid agency has contracts of the type(s) listed in 42 CFR Part 438. All contracts meet the requirements of 42 CFR Part 438. Risk contracts are procured through an open, competitive procurement process that is consistent with 45 CFR Part 74. The risk contract is with (check all that apply):

☒ A Managed Care Organization that meets the definition of 1903(m) of the Act and 42 CFR 438.2

☐ A Prepaid Inpatient Health Plan that meets the definition of 42 CFR 438.2

☐ A Prepaid Ambulatory Health Plan that meets the definition of 42 CFR 438.2.

☐ Not applicable.

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State West Virginia

Citation

4.29 Conflict of Interest Provisions

1902 (a)(4)(C) of the
Social Security Act
P.L. 105-33

The Medicaid agency meets the requirements of Section 1902 (a) (4) (C) of the Act concerning the Prohibition against acts, with respect to any activity under the plan, that is prohibited by section 207 or 208 of title 18, United States Code.

1902(a)(4)(D) of the
Social Security Act
P.L. 105-33
1932(d)(3)
42 CFR 438.58

The Medicaid agency meets the requirements of 1902(a)(4)(D) of the Act concerning the safeguards against conflicts of interest that are at least as stringent as the safeguards that apply under section 27 of the Office of Federal Procurement Policy Act. (41 U.S.C. 423).

TN No. 03-11
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Citation	(b)	The Medicaid agency meets the requirements of:
1902(p) of the Act	(1)	Section 1902(p) of the Act by excluding from participation— (A) At the State's discretion, any individual or entity for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII in accordance with sections 1128, 1128A, or 1866(b)(2).
42 CFR 438.808	(B)	An MCO (as defined in section 1903(m) of the Act), or an entity furnishing services under a waiver approved under section 1915(b)(1) of the Act, that – (i) Could be excluded under section 1128(b)(8) relating to owners and managing employees who have been convicted of certain crimes or received other sanctions, or (ii) Has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B) of the Act.
1932(d)(1) 42 CFR 438.610	(2)	An MCO, PIHP, PAHP, or PCCM may not have prohibited affiliations with individuals (as defined in 42 CFR 438.610(b)) suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549. If the State finds that an MCO, PCCM, PIHP, or PAHP is not in compliance the State will comply with the requirements of 42 CFR 438.610(c).